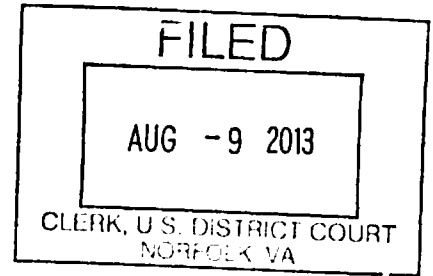


UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division



PRECON DEVELOPMENT
CORPORATION, INC.,

Plaintiff,

v.

ACTION NO. 2:08cv447

UNITED STATES ARMY CORPS
OF ENGINEERS,

Defendant.

FINAL ORDER

This matter comes before the court on the Motion for Summary Judgment (ECF No. 77), filed by the plaintiff on March 28, 2013, and the defendant's Cross Motion for Summary Judgment (ECF No. 91) filed on April 22, 2013. The matter was referred to a United States Magistrate Judge by Order of May 7, 2013, pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b), to conduct hearings, including evidentiary hearings, if necessary, and to submit to the undersigned proposed findings of fact, if applicable, and recommendations for the disposition of the motions.

The magistrate judge conducted a hearing on May 9, 2013, on the cross-motions for summary judgment. The United States Magistrate Judge's Report and Recommendation was filed on July 25, 2013 (ECF No. 100). The magistrate judge recommended that the plaintiff's Motion for Summary Judgment be denied and dismissed,

and defendant's Cross Motion for Summary Judgment be granted. By copy of the Report and Recommendation, the parties were advised of their right to file written objections thereto. The court has received no objections to the magistrate judge's report and recommendation, and the time for filing same has expired. The court does hereby adopt and approve in full the findings and recommendations set forth in the Report and Recommendation of the United States Magistrate Judge filed July 25, 2013.

Accordingly, the plaintiff's Motion for Summary Judgment is hereby **DENIED**; and the defendant's Cross Motion for Summary Judgment is hereby **GRANTED**. The Clerk shall enter judgment for the defendant and the case is **DISMISSED** from the docket.

The Clerk shall forward a copy of this Final Order to counsel for the parties.

It is so **ORDERED**.

/s/
Rebecca Beach **Smith**
Chief
United States **District Judge** *RB*

REBECCA BEACH SMITH
CHIEF UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

August 9, 2013